

(g) Agencies do not need approval from OPM before taking unfavorable suitability actions. However, they are required to report to OPM all unfavorable suitability actions taken under this part within 30 days after they take the action. Also, all actions based on an OPM investigation must be reported to OPM as soon as possible and in no event later than 90 days after receipt of the final report of investigation.

#### § 731.204 Debarment by OPM.

(a) When OPM finds a person unsuitable for any reason listed in § 731.202, OPM, in its discretion, may, for a period of not more than 3 years from the date of the unfavorable suitability determination, deny that person examination for, and appointment to, covered positions.

(b) OPM may impose an additional period of debarment following the expiration of a period of OPM or agency debarment, but only after the person again becomes an applicant, appointee, or employee subject to OPM's suitability jurisdiction, and his or her suitability is determined in accordance with the procedures of this part. An additional debarment period may be based in whole or in part on the same conduct on which the previous suitability action was based, when warranted, or new conduct.

(c) OPM, in its sole discretion, determines the duration of any period of debarment imposed under this section.

#### § 731.205 Debarment by agencies.

(a) Subject to the provisions of § 731.103, when an agency finds an applicant or appointee unsuitable based upon reasons listed in § 731.202, the agency may, for a period of not more than 3 years from the date of the unfavorable suitability determination, deny that person examination for, and appointment to, either all, or specific covered, positions within that agency.

(b) The agency may impose an additional period of debarment following the expiration of a period of OPM or agency debarment, but only after the person again becomes an applicant or appointee subject to the agency's suitability jurisdiction, and his or her suitability is determined in accordance with the procedures of this part. An ad-

ditional debarment period may be based in whole or in part on the same conduct on which the previous suitability action was based, when warranted, or new conduct.

(c) The agency, in its sole discretion, determines the duration of any period of debarment imposed under this section.

(d) The agency is responsible for enforcing the period of debarment and taking appropriate action if a person applies for, or is inappropriately appointed to, a position at that agency during the debarment period. This responsibility does not limit OPM's authority to exercise jurisdiction itself and take any action OPM deems appropriate.

#### § 731.206 Reporting requirements.

Agencies must report to OPM the level and result of each background investigation, suitability determination, and suitability action taken under this part, as required in OPM issuances.

[73 FR 66493, Nov. 11, 2008]

### Subpart C—OPM Suitability Action Procedures

#### § 731.301 Scope.

This subpart covers OPM-initiated suitability actions against an *applicant*, *appointee*, or *employee*.

#### § 731.302 Notice of proposed action.

(a) OPM will notify the applicant, appointee, or employee (hereinafter, the "respondent") in writing of the proposed action, the charges against the respondent, and the availability of review, upon request, of the materials relied upon. The notice will set forth the specific reasons for the proposed action and state that the respondent has the right to answer the notice in writing. The notice will further inform the respondent of the time limit for the answer as well as the address to which an answer must be made.

(b) The notice will inform the respondent that he or she may be represented by a representative of the respondent's choice and that if the respondent wishes to have such a representative, the respondent must designate the representative in writing.